

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TRUSTEES OF THE OPERATING ENGINEERS'  
LOCAL 324 PENSION FUND, OPERATING  
ENGINEERS' LOCAL 324 HEALTH CARE PLAN,  
OPERATING ENGINEERS' LOCAL 324 VACATION  
& HOLIDAY FUND, OPERATING ENGINEERS' LOCAL  
324 RETIREE BENEFIT FUND, OPERATING ENGINEERS'  
LOCAL 324 APPRENTICESHIP FUND and OPERATING  
ENGINEERS' LOCAL 324 DEFINED CONTRIBUTION  
PLAN, Trust Funds Established and Administered  
Pursuant to Federal Law,

Plaintiffs,

Case No. 16-14161

v.

HON. AVERN COHN

AJAX PAVING INDUSTRIES, INC., a Michigan  
Corporation, MARK K. JOHNSTON,  
JAMES A. JACOB, JAMES M. FRIEL,  
DENISE JACOB and STEVEN E. JACOB, individually,

Defendants.

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**ORDER DENYING PLAINTIFFS' EMERGENCY MOTION TO ATTEND IN-CAMERA  
REVIEW (Doc. 33)**

I.

This is an ERISA action to collect fringe benefits alleged to be owed to plaintiff funds. Before the Court is plaintiffs' Emergency Motion to Attend In-Camera Review. (Doc. 34). For the reasons that follow, the motion is DENIED.

II.

The purpose of the in-camera review hearing is for the Court to inquire into the source for an allegation contained in defendants' original Motion for More Definite

Statement (Doc. 13).<sup>1</sup> The allegation pertains to a vote by the trustees to seek an audit of defendants' books and records and relates to the integrity of the voting process.

Plaintiffs ask the court to compel disclosure of the source for the allegation. Defendants maintain that the allegation is not relevant to any issue in the case.

At a phone conference with the parties on September 6, 2017, the Court directed that defendants produce the source witness for questioning in camera. The Court scheduled the matter for hearing and directing defendants' counsel and the source witness to be present. Plaintiffs, under the mistaken impression that they could be present during the questioning, filed the instant motion seeking to attend the in camera hearing.

The purpose of an in camera review is for the Court to privately review material to determine whether it may be disclosed to a party or the public. Here, if the Court determines that the information is arguably relevant and may be disclosed, it will permit plaintiffs to review the transcript and take other appropriate steps. Until such time, plaintiffs are not entitled to any further information regarding the allegation.

SO ORDERED.

S/Avern Cohn \_\_\_\_\_  
AVERN COHN  
UNITED STATES DISTRICT COURT

Dated: September 22, 2017  
Detroit, Michigan

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<sup>1</sup>Defendants later amended the motion, removing the allegation at issue. (Doc. 14). Thus, although the allegation is not technically part of the record, plaintiffs have insisted on pursuing the source.